

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

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**IN RE: YASMIN AND YAZ (DROSPIRENONE)  
MARKETING, SALES PRACTICES AND  
PRODUCTS LIABILITY LITIGATION**

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)  
) **3:09-md-02100-DRH-PMF**  
)  
) **MDL No. 2100**  
)

**This Document Relates to:**

<i>Jessica Bagley v. Bayer Corporation, et al.</i>	No. 3:11-cv-20153-DRH-PMF
<i>Denise Cunningham, et al. v. Bayer HealthCare Pharmaceuticals Inc., et al.</i> <sup>1</sup>	No. 3:14-cv-10196-DRH-PMF
<i>Janelle Dowdle, et al. v. Bayer HealthCare Pharmaceuticals Inc., et al.</i> <sup>2</sup>	No. 3:13-cv-10437-DRH-PMF
<i>Tamarra Ferguson v. Bayer HealthCare Pharmaceuticals Inc., et al.</i>	No. 3:14-cv-10135-DRH-PMF
<i>Kennedy Hernandez v. Bayer HealthCare Pharmaceuticals Inc., et al.</i>	No. 3:14-cv-10118-DRH-PMF
<i>Lauren Lannert v. Bayer HealthCare Pharmaceuticals Inc., et al.</i>	No. 3:14-cv-10272-DRH-PMF
<i>Ashley Mathis v. Bayer HealthCare Pharmaceuticals Inc., et al.</i>	No. 3:14-cv-10112-DRH-PMF
<i>Claudia Mendoza, et al. v. Bayer HealthCare Pharmaceuticals Inc., et al.</i> <sup>3</sup>	No. 3:13-cv-10519-DRH-PMF
<i>Candice Mudgett, et al. v. Bayer HealthCare Pharmaceuticals Inc., et al.</i> <sup>4</sup>	No. 3:13-cv-10512-DRH-PMF
<i>Tammie Pitts v. Bayer HealthCare Pharmaceuticals Inc., et al.</i>	No. 3:14-cv-10142-DRH-PMF
<i>Christi Sage, et al. v. Bayer HealthCare</i>	No. 3:14-cv-10031-DRH-PMF

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<sup>1</sup> This Order applies to Plaintiff Denise Cunningham only.

<sup>2</sup> This Order applies to Plaintiff Holly Miller only.

<sup>3</sup> This Order applies to Plaintiff Betty Lampton only.

<sup>4</sup> This Order applies to Plaintiff Candice Mudgett only.

*Pharmaceuticals Inc., et al.*<sup>5</sup>

*Charlene Salinas, et al. v. Bayer HealthCare  
Pharmaceuticals Inc., et al.*<sup>6</sup>

No. 3:14-cv-10032-DRH-PMF

*Amy Sutter, et al. v. Bayer HealthCare  
Pharmaceuticals Inc., et al.*

No. 3:14-cv-20009-DRH-PMF

*Suzanne L. Tipton v. Bayer HealthCare  
Pharmaceuticals Inc., et al.*

No. 3:11-cv-10555-DRH-PMF

*Linda Vondercrone v. Bayer HealthCare  
Pharmaceuticals Inc., et al.*

No. 3:14-cv-10123-DRH-PMF

**ORDER OF DISMISSAL WITHOUT PREJUDICE**  
**(Failure To Comply With PFS Obligations)**

**HERNDON, District Judge:**

This matter is before the Court on the defendant's (Bayer HealthCare Pharmaceuticals Inc.) motion, pursuant to Case Management Order 12 ("CMO 12")<sup>7</sup> for an order of dismissal, without prejudice, of the plaintiffs' claims in the above captioned cases for failure to comply with Plaintiff Fact Sheet ("PFS") obligations.

Under Section C of CMO 12, each plaintiff is required to serve defendants with a completed PFS, including a signed declaration, executed record release authorizations, and copies of all documents subject to the requests for production contained in the PFS which are in the possession of plaintiff. Section B of CMO 12 further provides that a completed PFS is due "45 days from the date of service

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<sup>5</sup> This Order applies to Plaintiff Tina Dee Will, Individually and as Representative of the Estate of Kristina Kaye Chesney only.

<sup>6</sup> This Order applies to Plaintiff Charity Bouza only.

<sup>7</sup> The parties negotiated and agreed to CMO 12, which expressly provides that the discovery required of plaintiffs is not objectionable. CMO 12 § A(2).

of the first answer to her Complaint or the docketing of her case in this MDL, or 45 days from the date of this Order, whichever is later.”

Accordingly, the plaintiffs in the above-captioned matters were to have served completed PFSs between November of 2012 and December of 2014. Notice of Overdue Discovery was sent on January 27, 2015. As of the filing of Bayer’s motion to dismiss, Bayer still had not received completed PFS materials from the plaintiffs in the above-captioned matters.

Under Section E of CMO 12, the **plaintiffs were given 14 days from the date of Bayer’s motion** to file a response either certifying that they served upon defendants and defendants received a completed PFS, and attaching appropriate documentation of receipt or an opposition to defendant’s motion.

To date, none of the plaintiffs in the above captioned member actions has filed a response. Because the plaintiffs have failed to respond to Bayer’s allegations, the Court finds that these plaintiffs have failed to comply with their PFS obligations under CMO 12. **Accordingly, the above captioned cases are dismissed without prejudice.**

The Court reminds plaintiffs that, pursuant to CMO 12 Section E, **unless plaintiffs serve the defendants with a COMPLETED PFS or move to vacate the dismissal without prejudice within 60 days after entry of this Order, the**

Order will be converted to a Dismissal With Prejudice upon defendants' motion.

**IT IS SO ORDERED.**

Signed this 30th day of April, 2015.

*David R. Herndon*



Digitally signed by  
David R. Herndon  
Date: 2015.04.30  
14:25:49 -05'00'

**United States District Court**